

**UNITED STATES DISTRICT COURT  
IN THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

<b>ISRAEL CANTU HERRERA,</b>	§	
<b>Petitioner,</b>	§	
<b>v.</b>	§	<b>Case No.: 04-cv-532</b>
	§	
<b>RICK THALER, Director, TDCJ-CID,</b>	§	
<b>Respondent.</b>	§	

**ORDER DENYING PETITIONER’S MOTION  
FOR HABEAS CORPUS RELIEF**

Pending before the Court is Petitioner’s motion for habeas corpus relief.<sup>1</sup> (D.E. 40). On August 21, 2012, United States Magistrate Judge B. Janice Ellington filed a Memorandum and Recommendation, recommending Petitioner’s motion for habeas relief be denied. (D.E. 54). Judge Ellington also recommended that any request for a certificate of appealability be denied. (D.E. 54). On September 27, 2012, Petitioner filed objections to the Memorandum and Recommendation along with a request for an evidentiary hearing. (D.E. 59).

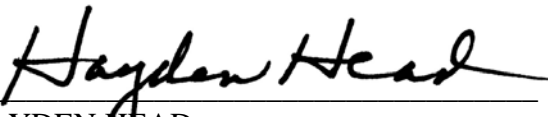
Having reviewed *de novo* the Memorandum and Recommendation and the pleadings on file, including Petitioner’s objections, this Court hereby adopts as its own the findings and conclusions of the Magistrate Judge. Accordingly, Petitioner’s motion for habeas relief (D.E. 40) is DENIED without prejudice to re-file with proper authorization from the Fifth Circuit Court of Appeals. Any

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<sup>1</sup>Petitioner titles his pleading a “Motion for Standard Review of Plain Error.” (D.E. 40). However, based on the relief sought, Petitioner’s filing is more aptly characterized as a petition for habeas corpus relief. (D.E. 54).

request for a certificate of appealability is DENIED. Petitioner's request for an evidentiary hearing (D.E. 59) is denied as moot.

ORDERED this 19th day of March, 2013.

  
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HAYDEN HEAD  
SENIOR UNITED STATES DISTRICT JUDGE